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7 Defendant TVIIM, LLC

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 TVIIM, LLC, a Colorado Limited liability
12 company,

13 Plaintiff,

14 v.

15 MCAFEE, INC., a corporation,

16 Defendant.

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18 MCAFEE, INC., a corporation,

19 Counterclaimant,

20 v.

21 TVIIM, LLC, a Colorado Limited liability
22 company,

23 Counterclaim Defendant.
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Case No. 3:13-cv-04545-HSG

Hon. Haywood S. Gilliam, Jr.

**TVIIM, LLC'S AMENDED JOINT
MOTION FOR JUDGMENT AS A
MATTER OF LAW PURSUANT TO FRCP
50(b) AND MOTION FOR NEW TRIAL
PURSUANT TO FRCP 59**

New Hearing Date: October 29, 2015
Hearing Time: 2:00 pm

**AMENDED MOTION FOR JUDGMENT AS A
MATTER OF LAW/NEW TRIAL
Case No.: 3:13-CV-04545-HSG**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on **October 29, 2015**, at 2:00 p.m. in Courtroom 15, 18th Floor, of this Court, located at 450 Golden Gate Avenue, San Francisco, CA 94102, or as soon thereafter as the matter may be heard, Plaintiff TVIIM, LLC (“TVIIM”) will and hereby does move pursuant to Federal Rule of Civil Procedure 50(b) for judgment as a matter of law on McAfee, Inc.’s (“McAfee”) Second Affirmative Defense for Invalidity and Second Counterclaim for Invalidity, based on 35 U.S.C. § 102(a) anticipation or 35 U.S.C. § 103 obviousness with respect to Claim 9 of the ‘168 Patent. TVIIM moves on the grounds that the two pieces of prior art presented at trial by McAfee did not anticipate the ‘168 Patent. Moreover, McAfee failed to present evidence sufficient to support a jury’s finding that the ‘168 Patent was obvious.

TVIIM will and hereby also moves pursuant to Federal Rule of Civil Procedure Rule 59 for a new trial on infringement and invalidity. TVIIM moves on the grounds that the jury’s verdict that the accused products did not infringe and are invalid is against the great weight of the evidence. Specifically, McAfee’s technical expert regarding infringement used contradictory and unsupportable interpretations of certain key claim terms to assert that the accused products did not infringe but that certain prior art references did. Further, counsel’s misleading statements to the jury grossly prejudiced TVIIM and precluded a fair trial.

This Motion is based on this Notice of Motion, the Motion and Memorandum of Points and Authorities filed and served on September 3, 2015 (Dkt. No. 305), the Declaration of John Shaeffer and exhibits thereto filed and served on September 3, 2015 (Dkt. No. 302-1), all pleadings and papers on file herein, and such oral argument as may be presented at the hearing on this motion.

Dated: September 10, 2015

FOX ROTHSCHILD LLP

By: /s/ John Shaeffer
John Shaeffer
Attorneys for Plaintiff TVIIM, LLC

ATTESTATION OF E-FILED SIGNATURE

I, Jeff Grant, am the ECF user whose ID and password are being used to file this document.
In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that concurrence in this filing had been
obtained from John J. Shaeffer and that records to support this concurrence are on file.

Dated: September 10, 2015

/s/ Jeff Grant

Jeff Grant

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury under the laws of the United States that a true and correct copy of the above and foregoing document has been served this date to all counsel of record who are deemed to have consented to electronic service via the Court's ECF system per Civil Local Rule 5-1.

Dated: September 10, 2015

/s/ Jeff Grant

Jeff Grant